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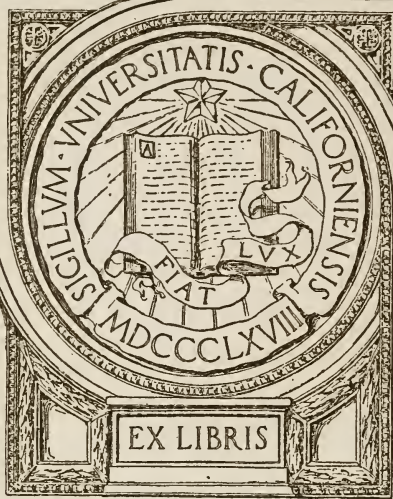
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INTERNATIONAL LABOUR CONFERENCE

FOURTH SESSION

GENEVA - OCTOBER 1922

REFORM OF THE CONSTITUTION OF THE  
GOVERNING BODY OF THE INTERNATIONAL  
LABOUR OFFICE.

PERIODICITY OF THE SESSIONS OF THE  
CONFERENCE.

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FIRST ITEM ON THE AGENDA

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GENEVA  
INTERNATIONAL LABOUR OFFICE  
1922





INTERNATIONAL LABOUR CONFERENCE

FOURTH SESSION

GENEVA - OCTOBER 1922

- (A) REFORM OF THE CONSTITUTION OF THE GOVERNING BODY OF THE INTERNATIONAL LABOUR OFFICE.
- (B) PERIODICITY OF THE SESSIONS OF THE CONFERENCE.

FIRST ITEM ON THE AGENDA



GENEVA  
INTERNATIONAL LABOUR OFFICE

1922

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**(A) Reform of the Constitution of the Governing Body  
of the International Labour Office.**

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*I. Washington Conference*

The constitution of the Governing Body of the International Labour Office is laid down by Article 393 of the Treaty of Versailles in the following terms :

The International Labour Office shall be under the control of a Governing Body consisting of 24 persons, appointed in accordance with the following provisions : —

The Governing Body of the International Labour Office shall be constituted as follows : —

- 12 persons representing the Governments;
- 6 persons elected by the Delegates to the Conference representing the employers;
- 6 persons elected by the Delegates to the Conference representing the workers.

Of the 12 persons representing the Governments 8 shall be nominated by the Members which are of the chief industrial importance, and 4 shall be nominated by the Members selected for this purpose by the Government Delegates to the Conference, excluding the Delegates of the 8 Members mentioned above.

Any question as to which are the Members of the chief industrial importance shall be decided by the Council of the League of Nations.

The period of Office of the members of the Governing Body will be three years. The method of filling vacancies and other similar questions may be determined by the Governing Body with the approval of the Conference.

The Organising Committee of the Washington Conference, whose task it was to make preparations for the first election of the Governing Body of the International Labour Office, prepared in the summer of 1919 a suggested list of the eight countries of the chief industrial importance,

which was communicated to all the countries named in the Annex to the Covenant of the League of Nations with the request that any objections which they might have to make might be forwarded to the Organising Committee.

The following were the eight countries in question : the United States, Great Britain, France, Germany, Italy, Belgium, Japan and Switzerland. Germany was included in this list in view of the possibility of its admission into the International Labour Organisation, and the Committee proposed that in the event of Germany's not being admitted the eighth place should be given to Spain.

Objections to the proposed list were made by Sweden, Poland, Canada and India.

The list originally proposed by the Organising Committee, in which Germany was included, was nevertheless adopted by the Conference, and Spain, Argentine, Canada and Poland were elected by the Government Delegates of the other States to fill the four remaining seats.

In view of these nominations Poland and Canada withdrew their previous claims. The Swedish claim was also withdrawn, since a Delegate of Swedish nationality was nominated by the workers' Delegates to sit on the Governing Body as a workers' representative. India alone maintained her protest, her Government Delegates having declined to take part in the election of the four States which were to be represented on the Governing Body.

During the Conference, however, a group of countries including all the States of Latin America, Spain, Canada, South Africa, China, India, Persia, Siam and Japan expressed their dissatisfaction with the fact that out of 15 different countries represented on the Governing Body 12 were European, while out of 24 members 20 were European.

On 25 November 1919 Mr. Justiz, the Cuban Government representative, read to the Conference a document



signed by all the States of Latin America, in which these States protested against the injustice to the 20 States of Latin America which had received a single seat out of the 24 seats on the Governing Body. <sup>(1)</sup>

At the same time, Mr. Gemmill, the representative of the South African employers, moved on 29 November that the Agenda of the next Conference should include an item concerning the revision of Article 393 of the Treaty of Peace and fixing the maximum number of representatives from European countries so as to ensure a more equitable representation for the other countries. <sup>(2)</sup>

After a discussion of Mr. Gemmill's motion the Conference adopted the following text by 44 votes to 39 :

This Conference expresses its disapproval of the composition of the Governing Body of the International Labour Office, in as much as no less than 20 of the 24 members of that Body are representatives of European countries. <sup>(3)</sup>

It will thus be seen that the reform of the Governing Body became an important question after the closure of the Washington Conference. Objections were raised there to the constitution of the Governing Body and to the predominance of the European members, and the Indian Government, which had not succeeded in obtaining a seat on the Governing Body in spite of its claim, probably intended to repeat its protest officially.

## II. *The Claim of the Indian Government and the Question of the Eight States of the chief industrial importance.*

During the first six months of 1920 the claim of the Indian Government was the subject of careful consideration and of frequent exchanges of views between the

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(1) Record of the Washington Conference, English Edition, p. 131.

(2) Record of the Washington Conference, English Edition, p. 271.

(3) Record of the Washington Conference, English Edition, p. 196.

International Labour Office, the Secretary-General of the League of Nations, and the Secretary of State for India at London.

Paragraph 4 of Article 393 of the Treaty of Peace does not authorise the Governing Body of the International Labour Office to decide questions relating to the list of the eight States of chief industrial importance, but entrusts this task to the Council of the League of Nations.

The Government of India maintained its protest, which was therefore referred to the Council of the League of Nations, in accordance with the provisions of the paragraph quoted above. The request of the Indian Government was examined by the Council during its Session at San Sebastian in August 1920.

A report on the question was presented by the Japanese representative, Mr. Matsui, and the Council unanimously adopted a resolution to the effect that any solution which might be found for this question ought not, in any case, to come into force before the expiry of the term of office of the representatives of the countries already chosen, i. e. before 1922. In the meantime the Council invited the Secretary-General to examine in conjunction with the International Labour Office the interpretation to be given to the term "industrial importance" and to submit a report to the Council in time to allow of a discussion of this point before the next election of the Governing Body (1922).

In accordance with this decision a Committee was constituted consisting of four members of the Governing Body and two experts nominated by the Secretary-General and instructed to report on the criteria which should be employed in the determination of "industrial importance". This Committee concluded its work while the present Questionnaire was being prepared, and its report will be presented almost immediately to the Council of the League of Nations. The Council will deal

with the conclusions contained in the report as well as with the protest of the Indian Government before the opening of the next Session of the Conference.

In addition to the claim of India, three other requests for representation on the Governing Body were presented subsequently to the Washington Conference by the Government of the Netherlands, the Government of Cuba, and the Czechoslovak Government, but in none of these cases was the request made that the claims should be submitted for the decision of the Council of the League of Nations. However, the Polish Government in a letter dated 23 January 1922 to the Secretary-General of the League of Nations renewed the protest previously made on 6 September 1919 but withdrawn as a consequence of the vote of the Washington Conference, which gave to Poland one of the four seats which were to be filled by election.

### *III. The Governing Body and the Reform of its Constitution on the Agenda of the 1921 Conference*

In view of the foregoing objections with regard to the eight States of the chief industrial importance as well as to the general composition of the Governing Body of the International Labour Office and of the inadequacy of the representation of extra-European countries, the Governing Body, during its third and fourth sessions held at London and Genoa respectively in March and June 1920, proceeded to examine in all its bearings the question of the reform of its constitution.

The Governing Body was fully aware of the importance of the problem and of the necessity of satisfying in as large a measure as possible the general claims put forward, and particularly those made by extra-European countries, and finally decided to include the question of the reform of its constitution as an item on the Agenda of the 1921 Conference and to refer the matter

to its Standing Orders Commission for preliminary examination.

The problem was accordingly closely examined in its entirety at a series of meetings of the Standing Orders Commission of the Governing Body in October 1920 and January and April 1921, and the conclusions of the Commission were submitted to the Governing Body at its session in April 1921, when the question was once more discussed at a plenary sitting.

Numerous suggestions for reform were reviewed and particular consideration was given to the possibility of a further development of the system of substitutes, but neither the Commission nor the Governing Body found it possible to recommend one or more definite proposals as being capable of giving satisfaction to the various claims presented to the Conference and at the same time of securing the continuity indispensable for the smooth working and efficiency of the Governing Body. It may be noted that up to this time the Standing Orders Commission and the Governing Body itself had on more than one occasion expressed themselves as unfavourable to any reform involving a revision of the Treaty. This attitude was due not only to the difficulties of the procedure for revision laid down by Article 422 of the Treaty, but also to the fact that at that moment the Assembly of the League of Nations had not yet considered itself in a position to propose amendments to the Covenant.

In these circumstances the Governing Body during its session of 14 April 1921 limited itself to the unanimous adoption, in the form of a recommendation to the three Groups of the Conference, of the following proposal which had been submitted by the Commission on Standing Orders :

The Conference recommends to the three Groups that on the expiration of the present mandate of the Governing Body, i. e. at the time of the 1922 election of the Governing Body, they take into account the importance of securing a reasonable representation as between the European and extra-European countries.



It may, however, be pointed out that the representatives of the Employers' Group and of the Workers' Group on the Governing Body were opposed to any scheme which contemplated any geographical distribution of their seats on the Governing Body.

Considerable divergence of opinion was evident among members of the Governing Body with regard to the question of substitutes, and, in view of the special interest which these suggestions presented for the Governments, it was decided to communicate to them the two texts which had been discussed, and which contained the two different proposals contemplated by the Governing Body.

These two texts, as well as that of the general recommendation adopted by the Governing Body, were communicated to the Governments of the Members in the Questionnaire prepared by the International Labour Office with a view to facilitating the discussion of the first item on the Agenda of the Third International Labour Conference. <sup>(1)</sup>

On the basis of the replies to this Questionnaire the International Labour Office drew up a report which was distributed to the Governments and to the Delegates to the Third Conference, and which was used as a basis for discussion of the question concerned at that Conference.

#### IV. *Geneva Conference*

In accordance with the decision of the Governing Body, the reform of the composition of the Governing Body was included as the first item on the Agenda of the Third International Labour Conference held at Geneva in October 1921.

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(1) Third Session of the International Labour Conference, Questionnaire No. 1. Reform of the Constitution of the Governing Body, English text, p. 28.



At its fourth sitting on 28 October the Conference unanimously adopted the proposal of the Commission of Selection that the question of the reform of the composition of the Governing Body should be referred to that Commission.

At its sixth sitting held on 1 November 1921, the Commission of Selection proceeded to an exchange of views on the matter and decided to nominate a special Sub-Commission to consider the question. The following members were nominated to form the Sub-Commission:

*Government Delegates :* Sir C. A. Montague Barlow (Great Britain),  
Mr. Rivas-Vicuña (Chili),  
Mr. Sokal (Poland).

*Employers' Delegates :* General Baylay (Great Britain),  
Mr. J. S. Edström (Sweden),  
Mr. W. Gemmill (South Africa).

*Workers' Delegates :* Mr. Baldesi (Italy),  
Mr. Crawford (South Africa),  
Mr. Joshi (India).

It may be noted that out of the 9 members composing the Sub-Commission there were four representatives of extra-European States.

At its seventh sitting, held under the Chairmanship of Mr. Edström, the Sub-Commission examined the various questions relating to the reform of the Governing Body.

The Sub-Commission took note of the fact that the question of the eight States of the chief industrial importance could not be examined by the Conference, and was at that time being examined by a Joint Committee composed of representatives of the League of Nations and of the Governing Body of the International Labour Office. It also expressed itself in favour of the text of an additional article to be inserted in the Standing Orders of the Conference, the object of which was to regulate the procedure of election of the Governing Body, and

examined the recommendation in general terms which had been drawn up by the Governing Body (see page 8).

The view of the Sub-Commission was that the latter text should be set aside in favour of a more definite recommendation drawn up in the following terms :

The Conference makes the following recommendation to the three Groups :

(a) of the 12 Governments represented on the Governing Body, 3 or 4 should be from overseas countries;

(b) of the 6 ordinary Delegates of the Employers' Group, 1 or 2 should be from overseas countries, and of the substitutes for this Group 1 or 2 should be from overseas countries.

(c) of the 6 ordinary Delegates of the Workers' Group, 1 or 2 should be from overseas countries, and of the substitutes for the same Group 1 or 2 should be from overseas countries.

That the above recommendation and the proposals as to substitutes contained in paragraph 6 of this report be submitted to Governments, Employers and Workers during the next 12 months, so that the Delegates for each Group may receive instructions thereon for the 1922 Conference.

The Sub-Commission was not in agreement with the system of rotation proposed in section (c) page 7 of Report No. 1 prepared by the International Labour Office <sup>(1)</sup>.

The question of substitutes for ordinary members of the Governing Body was debated at considerable length, and the Sub-Commission definitely proposed that the ordinary Delegates of the Governing Body should be authorised to be accompanied by substitutes (deputy members) with the right to speak on special subjects with the permission of the Chairman but without the right to vote.

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(1) This Report contemplated among the suitable methods of reforming the constitution of the Governing Body without amendment of the Treaty : “ (c) Recommendation of the Conference that in the case of the 4 elected States a system of *roulement* be observed, e. g. whereby none of the 4 should be elected twice in succession...” ”

The Sub-Commission further proposed that the 12 Governments represented on the Governing Body should themselves nominate their own substitutes, and that these substitutes might be of another nationality than the Government which they represented.

With regard to substitutes of members of the Employers' and Workers' Groups, it was proposed that six substitutes should be nominated for each of these Groups, and that the expenses of three substitutes in each Group should be borne by the International Labour Organisation.

In making these proposals the Sub-Commission expressed the opinion that the moment was not opportune for a revision of Part XIII of the Treaty. It was therefore suggested that any proposals requiring amendments to the Treaty should be referred to the Governing Body for examination.

With the exception of the first two points (eight States and election procedure) the decisions of the Sub-Commission were not unanimous. Mr. Rivas-Vicuña, Chilean Government Delegate, abstained from voting on the proposals regarding substitutes, and voted against the recommendation made to the three Groups, against the exclusion of the system of rotation and against the recommendation concerning the non-revision of the Treaty. At the same time, he presented a minority report in his own name which was referred to the Commission of Selection together with the majority report of the Sub-Commission.

Mr. Rivas-Vicuña vigorously supported the point of view of those who desired a revision of Part XIII and an increase in the number of members of the Governing Body. He pointed out that the Assembly of the League of Nations had recently adopted certain amendments to the Covenant, and that consequently one of the chief arguments of the opponents of a revision of Part XIII

fell to the ground. He accordingly submitted the following text to the Commission of Selection :

The Conference requests the Governing Body of the International Labour Organisation to examine the revision of Part XIII of the Treaty of Versailles, such revision to be submitted to the next Session of the Conference for its approval, and such revision having as its object :

- (a) to include the States of chief agricultural importance among the eight States referred to in Article 393 of the Treaty.
- (b) to increase the number of the members of the Governing Body in the same proportion as that laid down for the three Groups (2 Governments, 1 Employer, 1 Worker).
- (c) to adapt the provisions of paragraph 2 of Article 4 of the Treaty of Versailles concerning the Council of the League of Nations to the International Labour Organisation.
- (d) to propose, if possible, a system of rotation for the members of the Governing Body who have to be elected by the Conference.

As a provisional measure pending a revision of Part XIII of the Treaty, Mr. Rivas-Vicuña proposed the adoption of the following texts :

1. The Conference recommends to the Fourth Session of the Conference that at the time of the election of the members of the Governing Body the extra-European States be represented at least by one-third of the Government representatives and by one Delegate in the Employers' Group and one in the Workers' Group.

2. The 1922 Session of the Conference is requested to elect substitute members equal in number to the members occupying the new seats which it will have been decided to create. These members provisionally attend the meetings of the Governing Body, without the right to vote, pending their becoming full members, as soon as the amendment to the Treaty is duly ratified. They will cease to fulfil their functions at the same time as the full members elected by the 1922 Conference.

It may be pointed out that the majority report as well as the minority report of the Sub-Commission recognised the advisability of requesting the Governing Body to examine the possibility of revising the clauses of Part XIII relating to the composition of the Governing Body.



The Commission of Selection examined the two texts submitted by the Sub-Commission at its 16th, 17th and 18th sittings held on 16 and 17 November 1921.

The Commission of Selection recognised at the outset that the only solution which was likely to give satisfaction to the various claims would necessitate a revision of the Treaty.

The Commission however, did not fail to note the difficulties which would be involved in a revision of Part XIII in accordance with Article 422 of the Treaty which provides that amendments to Part XIII "are adopted by the Conference by a majority of two-thirds of the votes cast by the Delegates present", and "shall take effect when ratified by the States whose representatives compose the Council of the League of Nations, and by three-fourths of the Members"; but it was considered that the recent adoption of certain amendments to the Covenant by the Assembly of the League of Nations would facilitate the adoption by the different Governments of amendments to Part XIII.

The Commission of Selection was all the more insistent on the necessity of revising Part XIII because it was convinced that the partial solutions which had been brought forward were only of a provisional nature, and to some extent superficial, and would not allow of attaining the desired end.

Since, however, a revision of the Treaty was impossible without adequate preparation, the Commission definitely proposed to the Conference that the Governing Body should be entrusted with the task of examining the question and that the Agenda of the next Session of the Conference should include definite proposals susceptible of being ratified by the Governments.

At the same time the Commission considered it necessary that provisional steps in the direction of reform should be taken in order to give immediate satisfaction



in as wide a measure as possible to the requests of various countries. The Commission of Selection consequently adopted a resolution which contained among others a number of suggestions relating to the system of substitutes. This resolution was adopted by the Conference with two additions, which are italicised in the following text :

The Conference, recognising that modifications of the Treaty of Peace constitute the sole method of amending certain existing imperfections, and of ensuring a fully equitable representation on the Governing Body to the Members of the International Labour Organisation,

At the same time considering that such modifications made in virtue of Article 422 of the Treaty could not be of an improvised character,

Requests the Governing Body to examine the question and to place on the Agenda of the next Session of the Conference proposals to the above effect.

Pending the full decision of the question by an amendment of Article 393 of the Treaty of Peace, the Conference resolves that equitable provision should be made for the representation of the chief non-European areas and as a provisional step in that direction makes the following recommendations and resolutions with a view to the election to be held in 1922, which shall remain in force until the receipt of the necessary number of ratifications required by Article 422 to the modifications adopted by the 1922 Session of the Conference.

The Conference makes the two following recommendations to the three groups :

Of the 12 Governments represented on the Governing Body, 4 should be from overseas countries;

Of the 6 Delegates of the Employers' Group, one *at least* <sup>(1)</sup> should be from an oversea country;

Of the 6 Delegates of the Workers' Group, one *at least* <sup>(1)</sup> should be from an oversea country;  
and presents the following resolutions :

Substitutes (deputy members) may accompany the Ordinary Members of the Governing Body. They have the right to speak on special subjects with the permission of the Chairman asked for in writing.

They have not the right to vote.

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(1) Words added by the Conference.

In the absence of the titular member the substitute has all the rights of the titular member.

Each substitute shall deliver written credentials to the Chairman of the Governing Body.

The 12 Governments represented on the Governing Body may appoint their own substitutes (deputy members). Such a substitute may be of another nationality than the titular member of the Government itself, and shall be appointed in person by the Government of the titular member or by the titular member if duly authorised to do so by his Government.

The Employers' and Workers' Groups may each appoint at the Conference 6 substitutes (deputy members), the expenses of three of whom in each Group shall be paid out of the funds of the International Labour Organisation. These may be of a different nationality from the titular members.

These recommendations and proposals shall be submitted to the Governments, Employers and Workers during the next 12 months, so that the Delegates of each Group may receive instructions thereon for the next Session of the Conference.

The Conference refers to the Governing Body the question of a system of rotation, for study and report to the next Session of the Conference.

The Conference refers to the Governing Body the proposal that Paragraph 5 of Article 4 of the Covenant be adapted to the Governing Body, for study and report to the next Session of the Conference.

This resolution was adopted by the Conference at the 26th plenary sitting on Saturday 19 November 1921. The Delegates of certain extra-European States, in particular Mr. Nasu, Japanese Workers' technical adviser, Mr. Joshi, Indian Workers' Delegate, and Mr. Crawford, South African Workers' Delegate insisted at considerable length on the necessity of ensuring more equitable representation for countries outside Europe.

On the proposal of Mr. Tom Moore, Canadian Workers' Delegate, the Conference added to the text submitted by the Commission of Selection the two amendments indicated above with regard to the number of seats to be allocated to countries outside Europe in the Employers' and Workers' Groups. On the other hand, the Conference rejected an amendment proposed by Mr. Nasu,

the effect of which would have been to insert the words "at least" after the words "Governing Body" in the recommendation providing that "of the 12 Governments represented on the Governing Body 4 should be from overseas countries."

The system embodied in the resolution adopted by the Conference may be summarised as follows : —

1. The Conference is of opinion that it is desirable to proceed to a revision of Article 393 of the Treaty of Peace, to include the question in the Agenda of the 1922 Conference, and to request the Governing Body to draw up definite proposals to this effect.

2. In the meantime, and in view of the 1922 elections, the Conference makes the following recommendations to the three Groups with regard to the representation of extra-European States.

It is suggested that of the 12 Government Delegates appointed 4 should be from extra-European States, and that at least one of the 6 Employers' Delegates and at least one of the 6 Workers' Delegates should be extra-Europeans.

In addition, the Conference amends Article 3 of the Standing Orders of the Governing Body relating to substitutes.

3. The Conference requests the Governing Body specially to examine the possibility of adopting a system of rotation.

4. The Governing Body is also requested to examine the question of the adaptation to the Governing Body of Paragraph 5 of Article 4 of the Covenant of the League of Nations.

The points mentioned under 1, 3 and 4 imply the amendment of the Treaty. Point 2, on the other hand, refers to a system applicable to the 1922 Conference only.

Thus the 1921 Conference made two separate series of suggestions which should not be confused - the first relate to the election of the Governing Body under the existing provisions of the Treaty, and the second to the modification of those provisions. Briefly the situation is:-

1. The 1922 Conference is called upon to proceed to the election of the Governing Body in the light of the general recommendations made to it by the 1921 Conference and of the decisions which may be adopted by the Council of the League of Nations with regard to the eight States of the chief industrial importance.

2. The Governing Body has been requested to examine the possibility of amending the Treaty with a view to securing at a later date a more adequate reform of its constitution and to include proposals of this effect on the Agenda of the 1922 Conference.

The object of the present Questionnaire is to lay these proposals of the Governing Body before the Governments for their consideration.

#### *V. Re-examination of the Question by the Governing Body*

In accordance with the decision adopted by the Conference the Governing Body again resumed the consideration of the question of the reform of its constitution during its 11th session held in January 1922. During the sitting of 18 January it was decided to refer to the Commission on Standing Orders all questions relating to the revision of the Treaty, especially in connection with the reform of the Governing Body. <sup>(1)</sup>

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(1) The Commission on Standing Orders was presided over by Mr. E. Mahaim (Belgium) and was composed of the following members : *Government Delegates* : Mr. Adachi (Japan), Sir Montague Barlow (Great Britain), Mr. Sokal (Poland) ; *Employers' Delegates* : General Baylay (Great Britain), Mr. Carlier (Belgium), Mr. Colomb (Switzer-



The Commission on Standing Orders met for the first time on 20 January 1922. The Commission took note of the text of the decision of the Conference, as well as of a series of proposals submitted by one of its members, Mr. Oudegeest. Mr. Oudegeest's proposals were much wider in scope than those contemplated by the Conference, and dealt with changes not only in the composition of the Governing Body but also in that of the Conference.

That part of Mr. Oudegeest's proposals which referred to the reform of the Governing Body may be summarised as follows :

The number of members of the Governing Body to be raised to 36, 12 from each Group;

The privilege of the eight States of the chief industrial importance to be suppressed;

The term of office of the members of the Governing Body to be increased to four years ;

The sessions of the Governing Body to be reduced to two per annum, except on the special request of 15 members; the sittings to be public.

The Chairman, Mr. Mahaim, was requested by the Commission to submit a report at the next session on the proposals which might be made to the 1922 Conference for the revision of Article 393, taking account of those of the proposals put forward by Mr. Oudegeest which concerned the Governing Body.

The Commission on Standing Orders met again at Paris on 27 February, and during two long sittings studied the report which had been submitted by the Chairman.

The discussion ranged over the following points :

1. General revision of the Treaty.

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land), Mr. Hodacz (Czechoslovak Republic) ; *Workers' Delegates* : Mr. Jouhaux (France), Mr. Leipart (Germany), Mr. Oudegeest (Netherlands), Mr. Poulton (Great Britain).



2. Proportion of members of the three Groups and number of members of the Governing Body.
3. Privilege of the eight States of the chief industrial importance.
4. Geographical distribution of seats on the Governing Body.
5. Rotation (*Roulement*).
6. Length of term of office.
7. Convocation of the Governing Body on request.
8. Public sittings.
9. Admission to sittings of the Governing Body of States interested in special questions.
10. Reform of the Governing Body without revision of the Treaty.

1. *General Revision of the Treaty.* — Since the Governing Body had been formally requested by the Conference to bring forward proposals for the revision of Article 393, there could be no further question for the Commission on Standing Orders of going back on this decision.

While recognising this situation, some members of the Commission pointed out the obstacles which in their opinion were likely to be encountered by the proposed revision. They drew attention in particular to the fact that in accordance with Article 422 any amendment to Part XIII adopted by a two-thirds majority at the Conference would require, before coming into force, to be ratified by the States represented on the Council of the League of Nations and by three-fourths of the Members. It would thus only be necessary for a single one of the eight States which form the Council of the League of Nations to refuse to ratify the amendment in order to prevent it from coming into force. This did not of course render revision impossible but attention was drawn to it in order that the concrete proposals made should be

such as might be expected to secure the required unanimity.

2. *Proportion of the different Groups and number of members of the Governing Body.* — With regard to the number of seats to be allocated respectively to the different Groups, the Commission was faced with two alternatives : it could either accept the proposal which had been made to alter the present distribution of the Groups on the Governing Body by giving to the Government Group the same number of seats as to the two other Groups, or it could maintain the present preponderance of the Government Group which holds half the total number of seats on the Governing Body.

After a thorough examination of the question the Commission decided to maintain the present proportion between the different Groups, leaving for subsequent consideration the question of the possibility of basing at a later date the composition of the Governing Body on the allocation of an equal number of seats to each of the three Groups.

The Commission considered that by changing the proportion of the various Groups the character of the Governing Body would be entirely modified; the preponderance of the Governments in the International Labour Organisation was justified by its aims, which were to prepare international Conventions whose ratification and application depended on the action of Governments. If Governments saw that their influence in the Organisation was lessened, the effect would undoubtedly be to diminish more and more their interest in its work.

It was also pointed out that, if the influence of the Government Group on the Governing Body were diminished, it would become very difficult to give satisfaction to the various States which had desired to be represented, unless the Employers' and Workers' Groups consented

to place their seats at the disposal of these States, which up to the present they had always declined to do.

After an exchange of views on the question of the desirability of increasing the number of the members of the Governing Body, the opinion of the Commission was that the number of members should be increased to 32, i. e. 16 Government Delegates, 8 Employers' Delegates and 8 Workers' Delegates. This increase was thought to be justified by the necessity of giving representation to a greater number of States.

3. *Privilege of the eight States of the chief industrial importance.* — Allusion has already been made in Chapter 2 of the present Questionnaire (page 5) to the fact that the third paragraph of Article 393, which states that “of the twelve persons representing the Governments, eight shall be nominated by the Members which are of the chief industrial importance,” has given rise to numerous objections from the earliest days of the existence of the International Labour Organisation. The Commission had before it two proposals for the modification of this paragraph. The first suggested purely and simply that the clause should be suppressed and that no privilege should be granted to any State; the other proposed to maintain a privileged status for certain States, which would be named in the Treaty, and the number of which would be reduced to a minimum.

The last solution was accepted by the Commission. It was feared on the one hand that, if it were left to the Government Delegates at the Conference to nominate all the Members called upon to appoint a Government representative, there would be a risk of favouring certain combinations, with the result that States of importance from the point of view of the International Labour Organisation would be deprived of representation on the Governing Body. On the other hand, the Commission was unani-

mous in recognising that the present system of the eight States of the chief industrial importance could only give rise to disputes. It was consequently proposed to grant representation as of right to six States considered to possess a special importance vis-à-vis the International Labour Organisation: France, Germany, Great Britain, Italy, Japan and the United States.

4. *Geographical distribution.* — The claims of the various States, both European and extra-European, have shown how much importance they attach to taking part in the work of the Governing Body. It is in order to satisfy these States in as wide a measure as possible that the question of the reform of the Governing Body has been raised. Naturally, therefore, the Commission on Standing Orders gave the greatest attention to the examination of the various proposals for a better geographical distribution of the seats on the Governing Body.

The Commission admitted at once, as did the Conference, that it was desirable to secure a certain proportion of seats in each of the three Groups to the extra-European States.

In the Government Group it was proposed to reserve four seats for States outside Europe. As the United States and Japan already appear on the list of States with seats as of right on the Governing Body, the total number of seats in the Government Group allocated to extra-European countries would be 6 out of 16; this number corresponding to the requirements of the 1921 Conference.

The Commission further considered it expedient to modify the method of election of the Government Delegates. The present text of Article 393 does not allow the Delegates of the privileged States to take part in the election of the other Government Delegates. With a view to securing in the Government Group the same unity as that which exists in the other Groups, and in order to



allow the privileged States to exercise legitimate influence, one member of the Commission proposed the entire suppression of the end of the third paragraph of Article 393 referred to above. Another proposal was also laid before the Commission to the effect that the extra-European members of the Governing Body should be elected only by the extra-European Government Delegates at the Conference, but the Commission rejected the latter proposal and declared in favour of the former by 6 votes to 3.

After a discussion in which the most divergent opinions were expressed, the Commission decided by 6 votes to 4 to insert in the Treaty itself a clause reserving to the extra-European countries a fixed number of seats in the Employers' and Workers' Groups. By 6 votes this number was fixed at 2. The Employers' Group abstained from voting on this question.

5. *Rotation (Roulement).* — The 1921 Conference referred the question of a system of rotation to the Governing Body for examination and report. The Commission consequently considered whether a system of rotation among the States whose representatives were elected would not give satisfaction. The Commission, however, unanimously decided against any system of rotation, the dominating reason for this decision being that any such system would eventually become arbitrary and end in allocating seats to States which had shown no interest in the Organisation.

6. *Length of term of office.* — The Governing Body, as will be seen later, had before it a proposal submitted by Mr. Rüfenacht, the Swiss Government representative on the Governing Body, to the effect that the periodicity of the Sessions of the Conference should be modified. This question is dealt with in the second part of the present Questionnaire. In these circumstances, the Com-



mission on Standing Orders was compelled to reserve the question of the term of office until the question of the frequency of the Sessions of the Conference had been decided.

The decision of the Conference as to whether its Sessions are to be held at least once a year or once every two years will determine whether it is desirable to fix the term of office of the members of the Governing Body at three or four years.

7. *Convocation of the Governing Body on request.* — It is provided by Article 393 of the Treaty of Peace that on the request of 10 members an extraordinary session of the Governing Body is to be summoned.

In view of the proposed increase in the number of members of the Governing Body, the opinion of the Commission was that the number required should be raised from 10 to 12.

8. *Public sittings.* — A proposal to the effect that the sittings of the Governing Body should be open to the public was laid before the Commission, but after examination it was considered that this was a question of internal organisation, and that no ground existed for making it the object of a clause in the Treaty. At the present time, it is in virtue of Article 5 of the Standing Orders of the Governing Body that the sittings are not public.

9. *Admission of interested States.* — On the proposal of Mr. Rivas-Vieña the Conference had requested the Governing Body to examine the possibility of adapting to the Governing Body paragraph 5 of Article 4 of the Covenant of the League of Nations. Paragraph 5 reads as follows :

“ Any Member of the League not represented on the Council shall be invited to send a representative to sit as a member at any meeting of the Council during the consideration of matters specially affecting the interests of that Member of the League. ”

The Commission recognised that this provision gave expression to an indisputable idea of justice. It was, however, considered that it was more difficult in the case of the International Labour Organisation than in the case of the League of Nations to determine when and how a question specially affected the interests of a country. Almost all the countries in the world may consider themselves interested in all the work of the Governing Body. Moreover, the text of the Covenant allows the interested State to become a temporary member of the Council with the right to vote. This method of procedure, however, would be entirely inadmissible in the case of the Governing Body, where it would result in modifying the proportion of the Groups. A third difficulty is encountered in the application of this clause to the Governing Body : if interested countries are allowed to be represented, would these countries be represented by a Government Delegate, by an Employer, or by a Worker, or would they, on the contrary, be represented by a Delegate belonging to each Group ?

Recognising the force of these observations, the Commission adopted the following recommendation :

The Governing Body may, when it considers that a question on its Agenda is of particular interest to a State which is not represented on the Governing Body, invite the Government of this State to appoint a Delegate to take part in the discussions on this question, but without power to vote.

10. *Reform of the Governing Body without revision of the Treaty.* — The Commission on Standing Orders took note of the recommendations and resolutions adopted by the Third Conference. In the view of the Commission there was nothing to add to the proposals adopted by the Conference in the event of the impossibility of securing a revision of the Treaty.

The Commission on Standing Orders met again at Rome on 4 April 1922, for the approval of its report to the Governing Body. At the same time, the Director of the Office laid before the Commission a new proposal to the effect that the Governments of Members failing to pay their contributions to the expenses of the Organisation should be removed from the Governing Body.

It would appear both logical and equitable that States which do not punctually fulfil their financial obligations should be prevented from occupying a seat on the Governing Body to the detriment of other States who pay their contributions regularly. The proposal of the Office was drawn up in the following terms as a basis for discussion :

Any Member which has not paid in full its contribution to the budget of the International Labour Organisation for a given period within six months after the end of this period shall lose the seat assigned to it on the Governing Body.

After examining this proposal the Commission on Standing Orders adopted the principle embodied in it, and revised the text as follows :

If a Government has not paid its contribution six months after the close of the financial year, its representative on the Governing Body will not be permitted to sit until the contribution has been paid. The representative in question will not be allowed to take part in the meetings of the Governing Body or in those of the Conference.

A substitute will take his place, during this period, in accordance with the Standing Orders of the Governing Body.

Should a Government not pay its contribution for three consecutive years, the Conference will be asked to provide for that Government's representative to be replaced by another for the remainder of the period of representation.

## VI. *Final Decision of the Governing Body*

The report of the Commission on Standing Orders drawn up on these bases was laid before the Governing

Body at its sitting held on 6 April, and the various points contained in the report were the subject of an exchange of views between the members of the Governing Body.

The report was adopted with slight verbal amendments and with the exception of the clause relating to defaulting States, which was referred to the Commission on Standing Orders for further examination. At its sitting held on 7 April the Governing Body took note of the supplementary report of the Chairman of the Commission on Standing Orders on this question. This report proposed the adoption of the following text :

No one can be nominated as a member of the Governing Body or as a substitute if the State to which he belongs has not paid its contribution for the preceding year.

This new text was adopted by the Governing Body.

The draft of Article 393, which the Governing Body of the International Labour Office has the honour to lay before the Fourth Session of the Conference, in accordance with the request made by the Third Session of the Conference, is consequently drawn up in the following terms :

- I. "The International Labour Office shall be under the control of a Governing Body consisting of 32 persons :

" 16 representing the Governments		
" 8	"	" Employers and
" 8	"	" Workers.

2. "Of the 16 members representing the Governments, one each shall be nominated respectively by France, Germany, Great Britain, Italy, Japan and the United States of America.



3. "The 10 other members representing the Governments shall be elected by all the Government Delegates at the Conférence. Four members of the 10 shall belong to non-European States.
4. "The members representing the employers and the members representing the workers shall be elected respectively by the employers' Delegates and the workers' Delegates at the Conference. Two employers' members and two workers' members shall belong to non-European States.
5. "The period of office of the members of the Governing Body will be ..... years (*the period of office of the members of the Governing Body will require to be fixed at three or four years according as the Sessions of the Conference take place annually or once every two years*).
6. "The method of filling vacancies and other similar questions, such as that of substitutes, may be determined by the Governing Body subject to the approval of the Conference.
7. "The Governing Body shall from time to time elect one of its members to act as its chairman, shall regulate its own procedure and shall fix its own times of meeting. A special meeting shall be held if a written request to that effect is made by at least 12 members of the Governing Body.
8. "The Governing Body may, when it considers that a question on its agenda is of particular interest to a State which is not represented on the Governing Body, invite the Government of this State to appoint a delegate to take part in the discussions on this question, but without power to vote.

9. "No one can be nominated as a member of the Governing Body or as a substitute if the State to which he belongs has not paid its contribution for the preceding year."

In submitting this text to the Governments of the Members of the International Labour Organisation the International Labour Office requests that they will be good enough to furnish any observations which they may consider desirable on the question of the reform of the Governing Body. In the light of the observations which may be made the Office will draw up a report intended to serve as a basis for discussion on the first item on the Agenda of the Fourth Session of the Conference. This report will be communicated in due course to the Governments of the Members as well as to the Delegates to the Conference. In order to facilitate the preparation of this report the Governments are requested to inform the International Labour Office of their opinion on each of the proposals contained in the text adopted by the Governing Body, following as far as may be possible the order in which these proposals have been drawn up.

## **(B). Periodicity of the Sessions of the Conference.**

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During its eleventh session the Governing Body decided by eight votes to three to place upon the Agenda of the Fourth Session of the International Labour Conference the revision of Part XIII of the Treaty of Versailles and of the corresponding Parts of the other Treaties, with a view to modification as regards the periodicity of the Sessions of the Conference.

This decision arose from a proposal by Mr. Rüfenacht, Swiss Government representative on the Governing Body, to substitute for the first sentence of the present Article 389 of the Treaty, which runs :

The meetings of the General Conference of Representatives of the Members shall be held from time to time, as occasion may arise, *and at least once in every year.*

the following sentence :

The meetings of the General Conference of Representatives of the Members shall be held from time to time, as occasion may arise, *and at least once in every two years.*

In deciding to place this question on the Agenda the Governing Body requested the Commission on Standing Orders to submit it to preliminary examination together with the question of the reform of the constitution of the Governing Body.

A long discussion took place in the Commission on the expediency and the extent of the modification to be made. The dangers which result from too frequent Sessions of the Conference were emphasised in favour of modification. It was maintained that the working classes had been more and more deceived as it became

evident that the hopes placed in the International Labour Organisation were not being realised, in spite of the adoption each year of new Draft Conventions. Moreover, the national Parliaments were overloaded with work and did not succeed in examining the decisions of the Conferences within the prescribed periods. If the Conference were to meet once every two years better results would probably be obtained, while more time would be available for the preparation of the Sessions of the Conference.

The rôle of the Conference, however, is not confined to voting the texts which it is proposed to submit for the approval of the Members. The Conference must also supervise the activities of the Office; must take note of the efforts made to obtain the ratification of Conventions and the application of Recommendations; and must consider the manner in which the Office has carried out the duties incumbent on it in virtue of Article 396. The Conference must also take note of the measures taken by Members to put into operation the Conventions to which they have adhered, and Article 408 has made it clear that these measures must form the object of annual reports, a summary of which is to be presented by the Director of the Office at each Session of the Conference. If, however, the Conference only met every two years it would appear to be difficult for it to discuss the items on the Agenda and to exercise fully its right of examination and supervision at one and the same Session. At the same time, as was pointed out at the Commission, it is owing to the Conference that the public possesses a concrete idea of the International Labour Organisation, and if the Conference only met every two years there would be a danger that the impression might be given that the Organisation has not a permanent character. It is probably for similar reasons that the Assembly of the League of Nations has decided, in the absence of any definite provision in the Covenant, to hold a Session every year.



It appeared to several members of the Commission that the solution of the difficulty might be found in lightening the Agenda of the Conferences. The Commission examined particularly the system already explained in the communication addressed by the International Labour Office to the Governments on 28 February last regarding the Agenda of the Fourth Session of the Conference. This system would consist in holding alternately a large Conference, which might adopt Draft Conventions, and a small Conference, which would be limited to the examination of general questions relating to the application of former decisions and to the work of the International Labour Office, which would not require particularly technical knowledge and consequently would not necessitate the presence of technical advisers.

The Commission, however, did not reach a final decision on this question, but referred to the Governing Body the two alternatives with which it was confronted : either the convocation of a Conference every two years only, or the convocation of an advisory Conference and an “ executive ” Conference alternately.

During the session held on 5 April 1922 the Governing Body in its turn examined these two alternatives at great length.

After hearing a statement of the arguments in favour of the two theories, the Governing Body did not consider itself in any better position to make definite proposals to the Conference and decided to confine itself to the submission of the two solutions to the Governments.

The first alternative would consist in amending the first paragraph of Article 389 in the following manner :

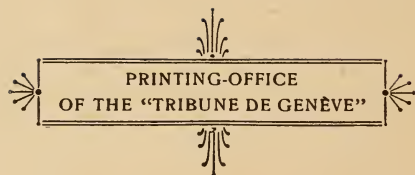
The meetings of the General Conference of Representatives of the Members shall be held from time to time, as occasion may require, and at least once in every two years.

The second solution would imply the maintenance of the present text of Article 389, but with the suggestion made in the letter of the International Labour Office dated 28 February, that the Sessions of the Conference should be divided into two categories alternating from year to year : in the first case the Conference would adopt Draft Conventions and Recommendations, and in the second would have merely to take note of the results obtained and of the difficulties encountered in application, and to regulate all the general questions concerning the regular operations of the International Labour Organisation.

The International Labour Office would therefore be glad if the Governments of the Members would give their opinion on the proposals considered by the Governing Body with regard to this part of the Agenda. In the light of the replies which may be received the International Labour Office will draw up, as for the first question, a report which will be submitted to the Conference and which may serve as a basis for discussion.











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